

Tuesday, September 1, 2009

Division One

A122985 – In re J.R., a Person Coming Under the Juvenile Court Law. The People, v. J.R.

The order of the trial court is affirmed. Margulies, J., We Concur: Marchiano, P.J., Graham, J.¹ (Not for Publication.)

Division Two

A123402 – In re L.S., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. Kevin S.

The challenged orders are affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

A122400 – In re Laci L. et al., Persons Coming Under the Juvenile Court Law. Lake County Department of Social Services, v. Rochelle P.

By The Court: It is ordered that the opinion filed herein on August 7, 2009, be modified as appellant request, as follows: (See Order.) This modification changes the judgment. Kline, P.J. (Not for Publication.)

Division Four

A123079 – Regina Maria Harkness, v. Edwin Larrieu.

The order is affirmed. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A124159 – Community Trust Credit Union, v. Budget Motors.

The granting of the motion to enforce the settlement and judgment below is affirmed. CTCU is entitled to recover its costs on appeal. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

¹ Retired judge of the Marin County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A121339 – The People, v. Carl Albert Skidmore.

The term of sentence as to count eight (§ 288, subd. (a)) is reduced to four years (one-third middle term, doubled pursuant to the Three Strikes law). The reference to no “contact” with the minor children in the sentencing order of April Tuesday, September 1, 2009(Continued)

14, 2008, shall be replaced with a reference to no “visitation” with the minor children. The clerk of the superior court is directed to correct the abstract of judgment accordingly. The judgment is affirmed in all other respects. Needham, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

Wednesday, September 2, 2009

Division One

A125385 – C.D., v. The Superior Court of Contra Costa County, Contra Costa County, Contra Costa County Bureau of Children and Family Services et al. R.P.I.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal. 3d 1012, 1024.) The decision is final in this court immediately. Margulies, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Thursday, September 3, 2009

Division One

A121945 – Estate of Maureen Kennedy Salaman, Deceased. Jerry W. Roberts et al., as Special Administrators, etc., v. Sean Morton et al.

The order on the petition is affirmed. Marchiano, P.J., We Concur: Margulies, J., Graham, J.² (Not for Publication.)

Division Three

² Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A124298 – In re C.R., a Person Coming Under the Juvenile Court Law. The People, v. C.R.

The order of the juvenile court is affirmed. Pollak, J., We Concur: McGuiness, P.J., Jenkins, J. (Not for Publication.)

A122992, A123320 – Ronnie Watkins et al., v. County of Alameda et al.

The judgment is reversed.³ The case is remanded to the trial court with directions to enter a judgment denying the petition for a writ of mandate. Each

Thursday, September 3, 2009(Continued)

party shall bear its own costs on appeal. McGuiness, P.J., I Concur: Jenkins, J. (See Concurring Opinion by Pollak, J.) (Certified for Publication.)

Division Four

A113655 – The People, v. Peter James Amante et al.

The 10-year enhancement imposed on Cardenas pursuant to section 186.22, subdivision (b)(1), is ordered stricken. Cardenas's abstract of judgment shall be modified to reflect a total sentence of 25 years to life, with a minimum parole eligibility of 15 years. The trial court is directed to prepare an amended abstract of judgment, and a certified copy of the modified abstract shall be forwarded to the Department of Corrections and Rehabilitation. In all other respects, the judgments are affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A118467 – The People, v. Mario King.

The judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A122593 – The People, v. Jose Jesus Vasquez Miranda.

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Friday, September 4, 2009

Division One

³ We deny Watkins's motion to strike portions of the county's reply brief.

A123743 – Paul Cummings, v. Walter Stanley III et al.

Accordingly, the judgment is reversed and the case is remanded to the trial court to conduct further proceedings consistent with the views expressed herein. Costs on appeal are awarded to plaintiff. Graham, J.,⁴ We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

Division Four

A120657 & A121731 – Tammy Cabral, v. Edward E. Martins et al.

Friday, September 4, 2009(Continued)

By The Court: Respondents Michael Dougherty and Valerie Follett's request for publication of the unpublished opinion on August 21, 2009, is hereby granted. The Reporter of Decisions is directed to publish said opinion in the Official Reports. Ruvolo, P.J.

Division Five

A121530 – The People, v. Markel Ray Morgain.

The trial court is directed to amend the abstract of judgment and minutes of the sentencing hearing to show an award for presentence custody credits of 249 days and to forward a copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. Jones, P.J., We Concur: Needham, J., Bruiniers, J. (Certified For Publication.)

Tuesday, September 8, 2009

Division One

**A123724 – In re T.L., a Person Coming Under the Juvenile Court Law.
Alameda County Social Services Agency, v. Todd L.**

The orders denying appellant's section 388 petition and terminating his parental rights are affirmed. Dondero, J., We Concur: Margulies, Acting P.J., Banke, J. (Not for Publication.)

⁴ Retired judge of the Superior Court of Marin County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Two

A122816 – The People, v. Tynesha West.

In all other respects the judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Five

A122142 – The People, v. Jeffrey J. McIntosh.

The judgment is affirmed. Bruiniers, J., We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

A122252 – Jeffrey A Conrad, v. Montgomery – Sansome et al.

By The Court: The petition for rehearing is granted. Jones, P.J.
Wednesday, September 9, 2009

Division One

A120302, A122248, and A122881 – Oliver Hill, v. San Francisco Bay Area Rapid Transit District.

By The Court: Appellant's petition for rehearing is deemed denied. (See California Rules of Court, rule 8.268(c).) Marchiano, P.J.

Division One

A121577 – Judy Oxford et al., Foster Wheeler LLC.

We reverse and remand for a new trial in a manner consistent with this opinion. (Code Civ. Proc., § 657, subd. 6; *Lambert, supra*, 67 Cal.App.4th 1179, 1186.) Costs on appeal are awarded to appellant. Graham, J.⁵ We Concur: Marchiano, P.J., Margulies, J. (Certified for Publication.)

A122857 – The People, v. Judy Pierce.

Defendant's motion to suppress was properly denied, and her conviction is affirmed. Banke, J., We Concur: Margulies, Acting P.J., Dondero, J. (Not for Publication.)

⁵ Retired judge of the Superior Court of Marin County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Two

A123296 – Estate of Gladys Mildred Lensch, Deceased. Jason Lensch, et al., v. Darin Wright, as Executor of the Estate of Jay A. Lensch.

By The Court: The opinion in the above-entitled matter filed on August 31, 2009, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Haerle, Acting P.J.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, September 9, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuinness, P.J., Siggins, J., and Jenkins, J.; and B. Robbins, Deputy Clerk.

A122733 Greg Levy,

v.

Zhenwen Liang.

Cause called and argued by Timothy J. Hannan, counsel for appellant Liang, and Robert A. Nellessen, counsel for appellant Levy. Cause ordered submitted.

At this point in the proceedings, Siggins, J. left the bench and Pollak, J. joined the bench.

A121053 Toshinori Nawa,

v.

Reuel M. Baluyot.

A121056 Toshinori Nawa,

v.

Luscutoff Lendormy & Associates, et al.

Cause called and argued by James Monagle, counsel for appellant Luscutoff, Lendormy & Associates et al.; Bernard Gehlhar, counsel for appellant Baluyot; and Daron D. Tong, counsel for respondent Nawa. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuinness left the bench and Justice Siggins re-joined the bench. Justice Pollak presided over the remainder of the morning session.

A121623 Sara Cho,

v.

Seagate Technology Holdings, Inc.;
David Klausner.

Cause called and argued by Charles D. Chalmers, counsel for appellant; Neil A. Popovic, counsel for respondent Seagate Technology Holdings, Inc.; and Adam Gutride, counsel for respondent Cho. Cause ordered submitted.

CONTINUED.

A123342 The People,
 v.
 Christopher Sunghwa Kang.
Cause called and argued by Theodore W. Cassman, counsel for appellant, and
Allen R. Crown, counsel for respondent. Cause ordered submitted.

A121590 County of Alameda,
 v.
 Judicial Council of California, et al.
Cause called and argued by Jonathan V. Holtzman, counsel for appellants, and
Arturo J. Gonzalez, counsel for respondents. Cause ordered submitted.

COURT ADJOURNED.

Wednesday, September 9, 2009(Continued)

Division Four

A123982 – The People, v. Christina Holmes.

The judgment is affirmed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J.
(Not for Publication.)

**A124100 – In re Sam S., a Person Coming Under the Juvenile Court Law.
The People, v. Sam S.**

The judgment is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J.
(Not for Publication.)

A122458 – Madonna Meadors, v. Laci Le Beau Corporation et al.

The judgment is affirmed. Defendants are entitled to their costs on appeal.
Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

**A124299 – In re L.M., a Person Coming Under the Juvenile Court Law. The
People, v. L.M., Contra Costa County Probation Department, R.P.I.**

The judgment (order denying motion for financial assistance/travel costs) is
affirmed. Needham, J., We Concur: Jones, P.J., Simons, J. (Certified for Publication.)

A119615 – The People, v. Jason Quiles.

The judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J.,
Bruiniers, J. (Certified for Partial Publication.)

A122299 – The People, v. Michael James Washington.

The judgment is affirmed. Bruiniers, J., We Concur: Jones, P.J., Needham, J.
(Not for Publication.)

Thursday, September 10, 2009

Division One

A121956 – The People, v. Matthew Scott Harrell.

Thursday, September 10, 2009(Continued)

The judgment of the trial court is affirmed. Margulies, J., We Concur: Marchiano, P.J., Graham, J.⁶ (Not for Publication.)

Division Two

A123928 – In re J.S., a Person Coming Under the Juvenile Court Law. The People, v. J.S.

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Four

A123523 – In re Toni C., a Person Coming Under the Juvenile Court Law. Del Norte County Department of Health and Human Services, v. Anthony C. et al.

The order terminating parental rights as to the minor is affirmed. Ruvolo, P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A119173 – RMC Pacific Materials, Inc., v. Metropolitan Stevedore Company, Inc.

The judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

A121688 – In re the Marriage of James Heierle and Yupa Assawaskuksant. James Heierle, v. Yupa Assawasuksant.

The May 14, 2008 order granting attorney fees to minor's counsel is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

⁶ Retired judge of the Marin County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A122074 – The People, v. Jason C. Mitchell.

The appeal is dismissed for failure to obtain a certificate of probable cause under section 1237.5. Needham, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A123715 – In re Mitchell A., a Person Coming Under the Juvenile Court Law. The People, v. Mitchell A.

Thursday, September 10, 2009(Continued)

The order is affirmed. Simons, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Friday, September 11, 2009

Division Two

A121665 – John Delois, v. Barrett Block Partners et al.

By The Court: It is ordered that the opinion filed herein on August 24, 2009. Be modified as follows: On page 14, footnote 4 is deleted. This modification does not effect a change in the judgment. Kline, P.J. (Not for Publication.)

Division Four

A121167 – Wanda O’Gilvie et al., v. Kaiser Foundation Hospitals et al.

The appeal is dismissed. Kaiser is entitled to recover its costs on appeal. Sepulveda, J., We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

A124396 – De’Wayne German Thomas, v. Mohammed Jahangiri et al.

The judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J. (Not for Publication.)

A122876 – Tony Fu, v. Demas Yan.

The order is affirmed. Costs to respondent. Simons, Acting P.J., We Concur: Needham, J., Bruiners, J. (Not for Publication.)

Monday, September 14, 2009

Division One

A121943 – Johnson Su, v. Lien Ping Chen et al.

By The Court: The Petition for rehearing is denied. Marchiano, P.J.

A122262 – The People, v. John Lyndon Dean.

Monday, September 14, 2009

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Graham, J.⁷ (Not for Publication.)

Division Two

A123028 – Koorosh Kamkari, v. Sonic Solutions et al.

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

Division Three

A124204 – Julia Powell Keller-McIntyre, v. Board of Trustees of the California State University et al.

The judgment is affirmed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 8.278(a)(5).) Jenkins, J., We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Division Four

⁷ Retired judge of the Marin County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A123759 – Zula, LLC, v. Tsegai Haile.

The purported appeals are dismissed. The order denying the motion to disqualify opposing counsel is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

A124498 – The People, v. Francisco Ayala Corona.

Judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

A123588 – The People, v. Chad Edward Estis.

In light of *Nguyen*, we affirm the judgment. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Tuesday, September 15, 2009

Division One

Tuesday, September 15, 2009(Continued)

A121626 and A122785 – SF Wharf Enterprises, v. W.W. Wharf GL, Inc. et al.

By The Court: The petition for rehearing is denied. Marchiano, P.J.

A124740 – The People, v. Carl Joseph Cocomero.

The judgment is affirmed. Dondero, J., We Concur: Margulies, Acting P.J., Banke, J. (Not for Publication.)

A124186 – The People, v. Norris Bruce Carter.

The judgment is affirmed. Marchiano, P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Tuesday, September 15, 2009

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Richman, J., Officer Lipsey and I. Santos, Deputy Clerk.

At this point of the proceedings, Presiding Justice Kline announced that he would not be on the panel for the last two cases on calendar. The panel for the first case would be Justice Kline, Justice Haerle and Justice Richman. The panel for the second case would be Justice Kline, Justice Lambden and Justice Richman. The last two cases on calendar would be Justice Haerle, Justice Lambden and Justice Richman.

A122972 Schellinger Brothers,
 v.
 City of Sebastopol.
Cause called and argued by Geoffrey Robinson, counsel for appellant, and Julia Bond, counsel for respondent. Cause ordered submitted.

A122801 In re A.C., a Person Coming Under the Juvenile Court Law.
 The People,
 v.
 A.C.
Cause called and Deputy Clerk I. Santos tried calling Laureen Bethards, counsel for appellant, via teleconference for oral argument. There was no answer by counsel for appellant. Christina Vom Saal, Deputy Attorney General, counsel for respondent, was present in court. Case originally considered waived but then continued to the afternoon session.

At this point of the proceedings, Presiding Justice Kline left the bench.

A121651 Iftikhar Nazir,
 v.
 United Airlines Inc. et al.
Cause called and argued by Philip Horowitz, counsel for appellant, and

Nancy Pritikin, counsel for respondents. Cause ordered submitted.

A122626 1725 Van Buren St., San Mateo, CA 94403 et al.

v.

James Neilsen.

Cause called and argued by Benjamin Levinson, counsel for appellant, Mark Blackman, counsel for respondent Wells Fargo Bank, Edward Treder, counsel for respondent PHH Mortgage, and Robert Curtis, in propria persona, via teleconference. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Tuesday, September 15, 2009

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., Richman, J., Officer Lipsey and I. Santos, Deputy Clerk.

At this point of the proceedings, Presiding Justice Kline announces that the panel in the first case consists of himself, J. Lambden, and J. Richman, and the panel for the remaining cases on calendar consist of himself, J. Haerle and J. Lambden.

A122801 In re A.C., a Person Coming Under the Juvenile Court Law.
The People,
v.
A.C.
Cause called and argued by Laureen Bethards, counsel for appellant, via teleconference, and Christina Vom Saal, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Justice Richman left the bench and Justice Haerle joined the bench for the remainder of the calendar.

A122415 The People,
v.
Marcus Delaine Dandy.
Cause called and argued by Meredith Watts, counsel for appellant, and Ronald Niver, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A116062 The People,

v.

David Anderson.

Cause called and argued by Kari Hong, counsel for appellant, and Linda Murphy, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A121886 Billy Rogers,

v.

Criterion Catalyst Company LP.

Cause called and argued by Bryce Anderson, counsel for appellant, and Joseph Addiego III, counsel for respondent. Cause ordered submitted.

A123386 Thomas Benjamin Brown,

v.

Superior Court of the State of California,

County of Alameda;

Sara Christine Biggs.

Cause called and argued by Terry L. Thompson, counsel for appellant.

Respondent was not represented by any counsel. Cause ordered submitted.

A122018 Robert Sprague,

v.

Curtis Kekoa, Jr.

Cause called and argued by Armen L. George, counsel for appellant, and

Newton Lee Ormasa, counsel for respondent. Counsel for respondent

given 20 days to 1) Answer Motion for Judicial Notice that was filed by

appellant on September 15, 2009 and 2) Granted Leave to Re-File Motion

to Declare Appellant as a Vexatious Litigant. Counsel for appellant given

20 days thereafter to respond to Motion for Vexatious Litigant. Cause to be submitted.

COURT ADJOURNED.

Tuesday, September 15, 2009(Continued)

Division Three

A122733 – Greg Levy, v. Zhenwen Liang.

The judgment is affirmed. Jenkins, J., We Concur: McGuiness, P.J., Siggins, J.
(Not for Publication.)

A121623 – Sara Cho, v. Seagate Technology Holdings, Inc., David Klausner.

We vacate the orders of the trial court and remand for further proceedings to correct the class definition to unambiguously state that indirect purchasers of new Seagate disc drives are members of the plaintiff class and to renote the settlement in order to give adequate notice to all class members, and allow for additional claims, objections or opt outs. Costs are awarded to appellant. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Certified for Publication.)

A124798 – In re K.B., et al., Persons Coming Under the Juvenile Court Law. Solano County Health and Social Services Department, v. N.B.

The order terminating Mother's parental rights to G.G. and K.B. is affirmed. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Four

A122540 – Classis of Central California, v. Miraloma Community Church et al.

The judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J.
(Certified for Publication.)

A123079 – Regina Maria Harkness, v. Edwin Larrieu.

By The Court: Appellant's petition for rehearing is denied. The opinion filed September 1, 2009, is modified to strike the last paragraph of the discussion section and replace it with the following paragraphs: (See Order.) The above modification does not effect any change in the judgment. (Cal. Rules of Court, rule 8.264(c)(2).) Sepulveda, Acting P.J. (Not for Publication.)

Division Five

**A124234 – In re Kevin C., a Person Coming Under the Juvenile Court Law.
The People, v. Kevin C.**

Tuesday, September 15, 2009(Continued)

The order is affirmed. Simons, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

A121729 – Todd Beth et al., v. Everett C. Doughty III.

The judgment is reversed. Costs on appeal to plaintiffs. Simons, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

A117181, A117207 – Estate of Richard H. Kloor, Deceased. Jonathan Kloor et al., v. Lesli Kloor, individually and as Executor etc. Jonathan Kloor et al., v. Lesli Kloor, Individually and as Trustee, etc., et al.

The trial court's judgments are affirmed. Costs are awarded to respondent/cross-appellant. Simons, J., We Concur: Jones, P.J., Bruiniers, J. (Not for Publication.)

Thursday, September 17, 2009

Division Two

A123800 – Laurie Mari Laskey, v. Adobe Systems, Inc.

The judgment is affirmed. Adobe is awarded costs. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A114662 – Todd Britt, v. William Cassidy.

The judgment is affirmed. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A119853, A120719 – The People, v. Brandon Paul Algere et al.

The matter involving Algere is remanded for the limited purpose of resentencing in a manner consistent with this opinion. In all other respects, the judgment as to Alegere is affirmed. The judgment as to Nix is affirmed. Lambden, J., We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

A121697 – The People, v. Michael Gralla.

A125097 – In re Michael Gralla On Habeas Corpus.

The part of this appeal that seeks a reversal of the 2005 judgment is dismissed. The petition for writ of habeas corpus is denied and the May 2008 sentencing order is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Thursday, September 17, 2009(Continued)

A124207 – In re Ian B., a Person Coming Under the Juvenile Court Law. The People, v. Ian B.

The juvenile court's order is affirmed. Kline, P.J., We Concur: Haerle, J., Richman, J. (Not for Publication.)

A121536 – In re B.P., a Person Coming Under the Juvenile Court Law. The People, v. B.P.

The juvenile court's order is affirmed. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

A118633 – William Spencer Co., v. Anning-Johnson Co.

The judgment is modified to provide that Anning-Johnson shall pay to Spencer the amount of \$677,986.46 (the judgment balance of \$223,479 plus \$307,352 plus \$147,155.46 for attorneys' fees and costs). As so modified, the judgment is affirmed. Spencer shall recover its costs. Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A123738 – In re C.L., a Person Coming Under the Juvenile Court Law. San Francisco Human Services Agency, v. P.U.

The juvenile court's order denying Mother's petition for visitation and granting the agency's petition to suspend visitation is affirmed. McGuiness, P.J., We Concur: Pollak, J., Jenkins, J. (Not for Publication.)

A121341 – The People, v. Bryan Clayton Walker.

The judgment is affirmed. McGuiness, P.J., We Concur: Pollak, J., Jenkins, J. (Not for Publication.)

Division Four

A114714 – Charlton Clemmer et al., Thorpe Insulation Company.

The judgment is affirmed. The Clemmers shall recover their costs on appeal.
Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A122958 – Gholamali Roshandell, v. Sears, Roebuck and Co. et al.

The judgment is affirmed. Reardon, Acting P.J., We Concur: Sepulveda, J.,
Rivera, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

Thursday, September 17, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Needham, Jr., J., Bruiniers, J., and Eric F. Cyman, Deputy Clerk.

A121128 Miller Avenue Professional and Promotional Services, Inc.,
 v.
 Charles A Koss, Gagan, McCoy, McMahon & Armstrong,
Cause called and argued by John P. McDonnell, counsel for appellant, and by Richard Raines, counsel for respondent. Cause ordered submitted.

A121279 The People,
 v.
 Kevin Lee Johnston,
Cause called and argued by Barry Martin Karl, counsel for appellant, and by Karen Z. Bovarnick, counsel for respondent. Cause ordered submitted.

A121140 Eric Armitage,
 v.
 James Allen et al.,
Cause called and argued by Eric Armitage, appellant, and by Gary Watt, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Needham left the bench and Justice Bruiniers entered.

A120973 Richard Vidor,
 v.
 City of Oakland Community & Economic Development Agency,
 Vulcan Properties, LP,
Cause called and argued by Nancy Conway, counsel for appellant, and by Vernon Goins and Manuel Martinez, counsels for respondents. Cause ordered submitted.

A117630 The People,
 v.
 Edward Vincent Ray Jr.,
 Edward Vincent Ray III,
Cause called and argued by Dirck P. Newbury and Katherine Demgen, counsels for

appellants, and by Jeremy Friedlander, counsel for respondent. Cause ordered submitted.

A124763 Donald Smith,
v.
The Superior Court of the City and County of San Francisco,
Cause called and argued by Charmaine Yu, counsel for petitioner, and by Stan Helfman,
counsel for real party in interest. Cause ordered submitted.

At this point in the proceedings Justice Simons left the bench and Justice Needham entered.

A119529 Sharon Rodrigues,
v.
Bayer Corporation et al.,
Cause called and argued by Lawrence Murray, counsel for appellant, and by Mitchell F.
Boomer, counsel for respondent. Cause ordered submitted.

A122300 The People,
v.
L.W.,
Cause called and argued by Patricia Cooney, counsel for appellant, and by Christopher
Grove, counsel for respondent. Cause ordered submitted.

A122242 Stephen Wollmer et al.,
v.
City of Berkeley,
1950 MLK, LLC,
Cause called and argued by Stuart Flashman, counsel for appellant, and by David Levy and
Zach Cowan, counsels for respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

A122563 Lake Almanor Associates, L.P.,
v.
Huffman-Broadway Group, Inc.,
Cause called and argued by William Neasham, counsel for appellant, and by Jeffry Miller,
counsel for respondent. Cause ordered submitted.

A121948 Ramzy Ayyad et al.,
v.
Sprint Spectrum, L.P. et al.,
Cause called and argued by Daniel H. Bromberg, counsel for appellants, and by Lawrence
T. Fisher, counsel for respondents. Cause ordered submitted.

A124364 Lonna A. Wais,
 v.
 Michael Wais et al.,
 Cause called and argued by Peter Moye, counsel for appellant, and by Richard Greene,
 counsel for respondent. Cause ordered submitted.

A123514 Sadrudin Laiwala,
 v.
 Hyundai Electronics America,
 Cause called and argued by Sadrudin Laiwala, appellant, and by Thomas J. LoSavio,
 counsel for respondent. Cause ordered submitted.

Court adjourned at 2:25 p.m.

Friday, September 18, 2009

Division One

A123248 – The People, v. George Nagatoshi Boyd.

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Graham, J.⁸ (Not for Publication.)

A123647 – In re R.C., a Person Coming Under the Juvenile Court Law. The People, v. R.C.

Accordingly, the judgment is affirmed. Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A121665 – John Delois, v. Barrett Block Partners et al.

By The Court: The opinion in the above-entitled matter filed on August 24, 2009, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Kline, P.J.

A121886 – Billy Rogers, v. Criterion Catalyst Company, LLP.

The judgment is affirmed. Criterion is awarded the costs of appeal. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A121951 – In re Melissa R., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. S.V.

By The Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

⁸ Retired judge of the Marin County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A122307 – A.M., v. Albertsons, LLC.

The judgment is affirmed. Reardon, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

Friday, September 18, 2009(Continued)

A122849 – Richard F. Holmes, v. City of Lafayette.

The judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

A125415 – Kenneth R., v. The Superior Court of Alameda County, Alameda County Social Services Agency, R.P.I.

The petition to set aside the June 9, 2009 order terminating his reunification services, continuing the suspension of visitation, and setting a section 366.26 hearing is denied. Bruiniers, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Monday, September 21, 2009

Division Two

A120287 – The People, v. Joe M. Moore.

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A124593 – The People, v. Jerry George York.

The judgment of conviction is affirmed. Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A123386 – Thomas Benjamin Brown, v. Superior Court of The State of California, County of Alameda. Sara Christine Biggs, R.P.I.

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A122415 – The People, v. Marcus Delaine Dandy.

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A123342 – The People, v. Christopher Sunghwa Kang.

The judgment is affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

Monday, September 21, 2009(Continued)

A122044 – The People, v. Paul Allen Richard.

The judgment is affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

A121590 – County of Alameda et al., v. The Superior Court of The County of Alameda.

The judgment is affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J. (Not for Publication.)

Division Five

A114910 – The People, v. Edgardo Rodriguez.

The judgment is affirmed. Reardon, J.⁹ We Concur: Jones, P.J., Needham, J. (Not for Publication.)

Tuesday, September 22, 2009

Division One

A122968 – The People, v. Vasega F. Tili.

The judgment of conviction is affirmed. Marchiano, P.J., We Concur: Margulies, J., Dondero, J. (Not for Publication.)

⁹ Judge of the Alameda County Superior Court of assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Two

A121340 – The People, v. David A. Sims.

The judgment is affirmed. Haerle, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A124601 – The People, v. Miguel G. Ruiz.

Our independent review having found no arguable issues that require briefing, the judgment of conviction is affirmed. Richman, J., We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A116062 – The People, v David Anderson.

Tuesday, September 22, 2009(Continued)

The judgment is affirmed. Lambden, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Four

A122023 – Banc of America Investment Services, Inc., v. Dermot J. Durnin.

The judgment vacating the arbitration award is affirmed. Reardon, J., We Concur: Ruvoilo, P.J., Sepulveda, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT, DIVISION FOUR

Tuesday, September 22, 2009

The court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Sepulveda, J.; Annie Reasoner, Deputy Clerk; CHP Officer Jeff Borgen, Bailiff.

A120827 People

v.

David Bom Le

Cause called. Maribeth Halloran argued for appellant Le. Joan Killeen argued for respondent People of the State of California. Cause submitted.

At this point, Reardon, J. left the bench and Rivera, J. joined the bench. Argument continued before Ruvolo, P.J., Sepulveda, J., and Rivera, J.

A121923 People

v.

Robert Reeves Blakewood

Caused called. Ozro Childs argued for appellant Blakewood. Sharon Wooden argued for respondent People of the State of California. Cause submitted.

A120692 T. Michael Ousley, et al

v.

Fidelity National Financial, et al

Cause called. Richard Bowles argued for appellant Ousley. Jeremy Goldman argued for respondent Fidelity. Cause submitted.

The court recessed at 10:31 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, September 22, 2009

The Court reconvened at 1:30 p.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P. J., Reardon, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer James Militar, Bailiff.

- A121202 International Federation of Professional and Technical Engineers, Local 21
v.
Public Employment Relations Board of the State of California
Cause called. Duane Reno argued for petitioner International. Wendi Ross argued for respondent PERB. Robin B. Johansen argued for real party in interest District. Cause submitted.
- A123267 Sharon D. Gocke, as Trustee, etc.
v.
Michelle Perkins et al.
Cause called. James Forbes argued for appellant Gocke. James Perkins argued for respondents. Cause submitted.
- A124463 Michael Kaeser et al.
v.
Linda Ludwig
Cause called. In pro per appellant Linda Ludwig argued. No appearance on behalf of respondents. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P.J., Sepulveda, J., and Rivera, J.

A121138 Linda J. Arnold et al.
A121351 v.
Thomas G. Breza
Causes called. The court directed counsel for respondents to argue first.
William M. Balin argued for respondents Arnold et al. Therese Cannata argued
for appellant. Causes submitted.

A121567 Paragon Real Estate Group of San Francisco et al.
v.
Peter Hansen et al.
Cause called. The court directed counsel for respondents to argue first. Mary
Mix argued for respondents Hansen et al. David Parker argued for appellants.
Cause submitted.

Court adjourned at 3:15 p.m.

Tuesday, September 22, 2009(Continued)

Division Five

A124364 – Estate of Marshall I. Wais, Deceased. Lonna A. Wais, v. Michael Wais et al.

The judgment (orders granting safe harbor petitions under section 21320) is affirmed. Costs on appeal are awarded to respondents. Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J. (Not for Publication.)

A123514 – Sadrudin Laiwala, v. Hyundai Electronics America et al.

The Order Re: Post-Judgment Costs, filed in the trial court on October 2, 2008, is modified by replacing “\$2,037.00” in the fourth paragraph and deleting the remainder of the sentence. As so modified, the order is affirmed. The order awarding respondents attorney fees is affirmed. Pursuant to Code of Civil Procedure section 425.16, subdivision (c), respondents shall recover their attorney fees and costs on appeal, the amount of which shall be determined by the trial court. Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J. (Not for Publication.)

A122406 – In re Marriage of Harold and Hope Steinmetz. Harold R. Steinmetz, v. Hope G. Goldman.

The trial court’s order is affirmed. Costs on appeal are awarded to respondent. Simons, Acting P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

A122197 – The People, v. Jose Jesus Arevaloherrera.

By The Court: It is ordered that the opinion filed herein on August 24, 2009, be modified as follows: (See Order). The petition for rehearing is denied. Jones, P.J. (Not for Publication.)

Wednesday, September 23, 2009

Division One

A123321 – James Karim Muhammad, v. Eden Housing Management.

By The Court: The petition for rehearing is denied. Marchiano, P.J.

**A125604 – T.G., v. Superior Court of California, County of Alameda,
Alameda County Social Services Agency et al. R.P.I.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court

Wednesday, September 23, 2009(Continued)

immediately. Marchiano, P.J., We Concur: Margulies, J., Banke, J. (Not for Publication.)

Division Two

A123168 – Michael H. Clement and Michael H. Clement Corp. v. Frank C. Alegre.

Discovery Order No. 1, granting defendant's motions 201 and 202 to compel and awarding sanctions, is affirmed. Defendant shall recover his costs on this appeal. Kline, P.J., We Concur: Haerle, J., Richman, J. (Certified for Publication.)

A123518 & A124825 – In re J.S., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. Anthony K., Anthony K., v. The Superior Court of Alameda County, Children & Family Services Department et al., R.P.I.

In A123518, the order terminating the parental rights of Anthony K. is reversed. In A124825, the petition for a writ of habeas corpus is denied. Richman, J., We Concur: Acting P.J., Lambden, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA³
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, September 23, 2009

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Pollak, J. and Siggins, J.; and F. Castuera, Deputy Clerk.

A119297 The People,

v.

Christopher Coleman.

Cause called and Pollak, J. explained to all parties in the courtroom that Jenkins, J. was not present; however, he would listen to the oral argument. Counsel Candace Hale argued the case for appellant, and Allen Crown for respondent. Cause ordered submitted.

A118207 The People,

v.

Gregory Colbert.

Cause called and argued by Frank McCabe II, counsel for appellant, and Eric Share, counsel for respondent. Cause ordered submitted.

A122890 The People,

v.

Javon Allen.

Cause called and argued by Alex Coolman, counsel for appellant, and Rene Chacon, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Wednesday, September 23, 2009(Continued)

Division Four

A118921 – Gina A. Chin, v. Department of Industrial Relations, Division of Occupational Safety and Health.

The judgment is affirmed. DIR is entitled to its costs on appeal. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Thursday, September 24, 2009

Division Two

A123341 – In re Janay N., a Person Coming Under the Juvenile Court Law. The People, v. Janay N.

The matter is remanded to the juvenile court to exercise its discretion and expressly declare whether the violations should be treated as felony or misdemeanor offenses, and to calculate the maximum period of confinement accordingly. Richman, J., We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A122213 – The People, v. Eric Campbell Holm.

The judgment is affirmed. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

Division Four

A119493 – The People, v. Leovic Araneta Laureano.

The cause is remanded to the trial court with directions to recalculate Laureano's actual day credits and section 4019 credits in a manner consistent with the views expressed in this opinion, to prepare a corrected abstract of judgment, and to forward it to the Department of Corrections and Rehabilitation. In all other respects, the judgment

is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A124233 – In re F.K., a Person Coming Under the Juvenile Court Law. The People, v. F.K.

The order appealed from is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Thursday, September 24, 2009(Continued)

Division Five

A124064 – In re Zamiah S., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. L.S. et al.

The juvenile court's order terminating parental rights is reversed. The case is remanded to the juvenile court with directions to comply with the notice and inquiry provisions of ICWA. If, after proper inquiry and notice, the court determines Zamiah is an Indian child, the juvenile court shall proceed in conformity with ICWA. If, however, after proper inquiry and notice, the juvenile court determines Zamiah is not an Indian child, the order terminating parental rights and selecting adoption as the permanent plan shall be reinstated. Bruiniers, J., We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

Friday, September 25, 2009

Division One

A122489 – Warren Havens et al., v. Mobex Network Services, LLC et al.

For the foregoing reasons we conclude the court did not err in sustaining defendants' demurrers without leave to amend as to all causes of action alleged in the section 332(c)(3)(A). We therefore affirm the judgment. Graham, J.¹⁰ We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

¹⁰ Retired judge of the Superior Court of Marin County assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A125353 – T.H., v. The Superior Court of San Mateo County, San Mateo County Human Services Agency, R.P.I.

The petition is denied on the merits. (*Kowis v. Howard* (1992) 3 Cal.4th 888, 894 [barring later challenge by appeal]; § 366.26, subd. (1)(1).) Given the proximity of the plan hearing, our decision is immediately final as to this court. Lambden, J., We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Five

A124612 – The People, v. Curtis Dane Sanders.

The judgment is affirmed. Needham, J., We Concur: Simons, Acting P.J., Bruiniers, J. (Not for Publication.)

Friday, September 25, 2009(Continued)

A121128 – Miller Avenue Professional and Promotional Services, Inc., v. Charles A. Koss et al.

The judgment is affirmed. Costs on appeal are awarded to defendants/respondents. Needham, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A121140 – Eric Armitage, v. James Allen and Lynda Allen.

The trial court's judgment is affirmed. The Allens are awarded their costs on appeal. Simons, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

A122300 – In re L.W., a Person Coming Under the Juvenile Court Law. The People, v. L.W.

The juvenile Court is ordered to file an amended commitment order reflecting that the minor is entitled to 493 days of precommitment credit and to forward a certified copy of the amended commitment order to the Department of Corrections and Rehabilitation, Division of Juvenile Justice Facilities. In all other respects, the judgment is affirmed. Jones, P.J., We Concur: Needham, J., Bruiniers, J. (Not for Publication.)

Monday, September 28, 2009

Division One

A124106 – Denise Coleman, v. City and County of San Francisco et al.

The order sustaining CCSF's demurrer without leave to amend and dismissal of Coleman's petition is affirmed. Banke, J., We Concur: Margulies, Acting P.J., Dondero, J. (Not for Publication.)

Division Three

A120091 – The People, v. Brett Leonard Moore.

The judgment is affirmed. McGuiness, P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

A123710 – The People, v. Milton E. Bonilla.

The judgment is affirmed. Jenkins, J., We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

Division Four

Monday, September 28, 2009(Continued)

A120724 – The People, v. Tevita Taumoeanga.

We reverse the sentence as to the restitution fine and the referral for \$500 in attorney fees and remand the cause to the superior court to (1) reduce the restitution fine imposed under the section 1202.4, subdivision (b)(2) formula to \$1,600 to reflect the felony convictions stayed pursuant to section 654, as well as the two misdemeanor counts that were improperly included in the calculations; (2) reduce the corresponding parole revocation restitution fine accordingly; (3) determine and impose the proper amount of the restitution fine and parole revocation restitution fine for the two misdemeanor counts, not to exceed \$1,000; (4) amend the amended abstract of judgment (A) to show that both counts four and five were stayed and (B) to reflect the corrected amounts of the restitution fine and parole revocation restitution fine; (5) strike the notion in the January 15, 2008 minute order that states, "The defendant is referred to Office of Revenue Collections for \$500.00 in Attorney Fees for the services of the Public Defenders Office"; and (6) forward a certified copy of the further amended abstract of judgment to the Department of Corrections and Rehabilitation. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Tuesday, September 29, 2009

Division One

A123269 – The People, v. Wesley Level Thompson.

The judgment is reversed insofar as it imposes mandatory sex offender registration on defendant pursuant to section 290, subdivision (c) and a concurrent term of eight months on count two. We remand the matter to the trial court to (1) determine whether defendant should be required to register as a sex offender pursuant to section 290.006, by following the two-step process delineated in *Hofsheier*; (2) correct defendant's abstract of judgment to reflect that his sentence for count one is the middle term of two years; (3) modify defendant's sentence on count two to impose a lawful concurrent sentence of either 16 months or two years, to run concurrently with the sentence for count one, and amend the abstract of judgment to accurately reflect a lawful concurrent sentence on count two; and (4) forward copies of the corrected and amended abstract to the California Department of Corrections and Rehabilitation. In all other respects, the judgment of the trial court is affirmed. Margulies, J., We Concur: Marchiano, P.J. (See Concurring Opinion by Graham, J.¹¹) (Certified for Publication.)

A122251 – Estate of Mildred R. Hentz, Deceased. Henry Heintz, v. Charles E. Heintz.

Tuesday, September 29, 2009(Continued)

The judgment is affirmed. Margulies, J., We Concur: Marchiano, P.J., Graham, J.¹² (Not for Publication.)

A121299 – The People, v. John Abel.

The judgment of conviction is affirmed. Banke, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A123133 – The People, v. Isidro Pena Soto.

The judgment is modified to strike the convictions on counts 2 and 3, and the true findings on the special allegations as to those counts. As so modified, the judgment is affirmed. The trial court is directed to prepare and forward an amended abstract of judgment reflecting the modification to the Department of Corrections and Rehabilitation. Marchiano, P.J., We Concur: Marchiano, P.J., We Concur: Margulies, J., Dondero, J. (Not for Publication.)

¹¹ Retired judge of the Superior Court of Marin County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

¹² Retired judge of the Marin County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Two

A117629, A118491, & A118699 – John Penna, v. Necati Ergur.

For the reasons set out above, we dismiss plaintiff's appeal from the judgment and affirm the trial court's orders at issue in these consolidated appeals, with costs to defendant. Kline, P.J., We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A121527 – In re the Marriage of Gilbert II and Amy Lynn Papazian.

The order appealed from is affirmed. Costs on appeal to respondent. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

A123695 – The People, v. Latisha A. Curry.

The order revoking probation is affirmed. Haerle, Acting P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

A121053 and A121056 – Toshinori Nawa, v. Reuel M. Baluyot et al.

The trial court's order denying appellant's special motion to strike is affirmed with respects to the causes of action for breach of fiduciary duty, beach of escrow agreement and order, and negligent infliction of emotional distress, and is reversed with respect to the constructive fraud cause of action. On remand, the trial court

Tuesday, September 29, 2009(Continued)

shall decide the parties' respective requests for attorney's fees and costs incurred below, and for attorney's fees incurred on appeal, in accordance with the standards set forth above. (§ 425.16, subd. (c).) The parties shall on their own bear those appellate costs recoverable under California Rules of Court, rule 8.278. (See *Liu, supra*, 69 Cal.App.4th at p.755 ["costs[awarded pursuant to California Rules of Court, former rule 26] do not depend on [a party's] status as the prevailing party on the motion to strike, but rather on her having prevailed in this appeal"].) Jenkins, J., We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

A120187 – The People, v. Andre Maurice Grubbs.

The judgment is affirmed. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

A122788 – The People, v. Jose Guadalupe Salinas-Almaguer.

The judgment is affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J.
(Not for Publication.)

A124076 – In re K.R., a Person Coming Under the Juvenile Court Law. The People, v. K.R.

The judgment is affirmed. Siggins, J., We Concur: Pollak, Acting P.J., Jenkins, J.
(Not for Publication.)

A123662, A124130 – In re Barry L., a Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency, v. Barney L.

The order summarily denying the petition for modification is affirmed. The order after the sixth postpermanency planning hearing is reversed, and that matter is remanded to the juvenile court for a contested hearing on the issue of visitation. Reardon, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Four

A123162 – The People, v. James Leroy Hunter.

The matter is remanded to the trial court for resentencing. In all other respects, the judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A120415 – The People, v. Leonard P. Helm.

The order appealed from is affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Tuesday, September 29, 2009(Continued)

A124472 – In re J.M., a Person Coming Under the Juvenile Court Law. Alameda County Services Agency, v. R.M.

The appeal is dismissed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A118208 – The People, v. Troy Devin Smith.

The judgment is affirmed. Ruvolo, P.J., We Concur: Reardon, J., Rivera, J.
(Certified for Partial Publication.)

A123660 – The People, v. Joseph Lee Williams.

The judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Sepulveda, J.
(Not for Publication.)

Division Five

A124356 – The People, v. Rey Lucas Avellaneda.

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Needham, J.
(Not for Publication.)

A122252 – Jeffrey A. Conrad, v. Montgomery – Sansome LP et al.

The orders denying the JNOV motion and granting a new trial are reversed and remanded with directions to the court to: (1) grant defendants' JNOV motion on the claims for wrongful constructive termination and punitive damages; and (2) enter the resulting judgment for defendants on the claims for wrongful constructive termination and punitive damages. Defendants are awarded costs on appeal. Jones, P.J., We Concur: Simons, J., Bruiniers, J. (Not for Publication.)

Wednesday, September 30, 2009

Division One

A123467 – In re E.S. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency, v. R.S.

Language in the orders of December 4, 2008, in case numbers HJ-06-003194, HJ-06-003235, HJ-06-003236, to the effect that "The Agency has discretion to set up supervised visits between the minor and [Mother] on the condition[] that it is in the best interest of the minor," is hereby stricken. As so modified, the orders are affirmed. Marchiano, P.J., We Concur: Dondero, J., Banke, J. (Not for Publication.)

Wednesday, September 30, 2009(Continued)

A124762 – The People, v. Kenneth Adrian Fuller.

Defendant was represented by counsel at all stages in the proceedings below. There was no error in the court's disposition. There are no meritorious issues to be argued. The order for probation is affirmed. Marchiano, P.J., We Concur: Margulies, J., Banke, J. (Not for Publication.)

A121577 – Judy Oxford, v. Foster Wheeler.

By The Court: The petition for rehearing is denied. Marchiano, P.J.

A123904 – The People, v. Tyler James Hart.

The judgment is affirmed. Dondero, J., We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A123345 – The People, v. Lorenzo Leon Speed.

We find no arguable issues that require further briefing and accordingly, affirm the judgment. Margulies, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

A123180 – The People, v. Christian Miguel Mendez.

We find no arguable issues that require further briefing and, accordingly, affirm the judgment. Margulies, J., We Concur: Marchiano, P.J., Dondero, J. (Not for Publication.)

Division Two

A124297 – In re J.M., a Person Coming Under the Juvenile Court Law. The People, v. J.M.

The verbal probation condition stated by the juvenile court on March 2 regarding appellant “doing his best at school” is ordered stricken, but the conditions in the court’s written order of the same date are affirmed. Otherwise, the juvenile court’s judgment and orders are affirmed. Haerle, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A122126 – The People, v. Chad C. Lodel.

The judgment is affirmed. Richman, J., We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A123513 – Jean Gerards et al., v. James R. Randono et al.

Wednesday, September 30, 2009(Continued)

The judgment is affirmed. The motion for sanctions is denied. Respondents shall recover their costs on appeal. Pollak, Acting P.J., We Concur: Siggins, J., Jenkins, J. (Not for Publication.)

Division Four

A123191 – The People, v. Floyd Shunday Hall.

The trial court correctly concluded that the lacked jurisdiction to reconsider the request for probation. Accordingly, the judgment is affirmed. Reardon, Acting P.J., We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A122073 – The People, v. Lawrence Jones Alexander, Jr.

The judgment is modified to strike the section 667.5, subdivision (b) one-year enhancement and to reflect a sentence of six (6) years in state prison. The trial court is directed to send to the Department of Corrections a corrected abstract of judgment. In all other respects the judgment is affirmed. Sepulveda, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A123980 – The People, v. Rodney Lee Carroll.

The judgment is affirmed. Rivera, J., We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A120692 – T. Michael Oudley as trustee, etc., et al. v. Fidelity National Financial, Inc. et al.

The judgment is reversed. The order denying sanctions is affirmed. Plaintiffs shall recover their costs incurred on the appeal and cross-appeal upon timely application in the trial court. (Cal. Rules of Court, rule 8.278.) Sepulveda, J., We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

A124930, A125539 – In re S.P., a Person Coming Under the Juvenile Court Law. Mendocino County Department of Social Services, v. J.P.

The orders are affirmed. Rivera, J., We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

A123555 – The People, v. Charles E. Brown.

The judgment is affirmed. Jones, P.J., We Concur: Simons, J., Needham, J.
(Not for Publication.)

Wednesday, September 30, 2009(Continued)

A121607 – Debbie Ramirez et al., v. California Highway Patrol et al.

The judgment is affirmed. Plaintiffs shall pay Defendants' costs on appeal.
Bruiniers, J., We Concur: Jones, P.J., Simons, J. (Not for Publication.)